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Intellectual Property Administration
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PATENT APPLICATION

ATTORNEY DOCKET NO. 200311332-2

Inventor(s): Randy Hoffman et al.

Confirmation No.: 7102

Application No.: 10/763,353

Examiner: Johannes P. Mondt

Filing Date: January 23, 2004

Group Art Unit: 3663

Title: Semiconductor Device

Mail Stop After Final
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

Response/Amendment
 New fee as calculated below
 No additional fee
 Other _____

Petition to extend time to respond
 Supplemental Declaration

Fee\$

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS	26	MINUS	49	= 0	X \$52	\$ 0
INDEP. CLAIMS	6	MINUS	7	= 0	X \$220	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM						+ \$390
EXTENSION FEE	<input type="checkbox"/> 1st Month \$130	<input type="checkbox"/> 2nd Month \$490	<input type="checkbox"/> 3rd Month \$1110	<input type="checkbox"/> 4th Month \$1730		\$ 0
OTHER FEES						\$
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Randy Hoffman et al.

By: /Steven L. Nichols/

Steven L. Nichols

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Reg No. : 40,326

Date : October 15, 2009

Telephone : 801-572-8066

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent Application of
Randy Hoffman et al.
Application No. 10/763,353
Filed: January 23, 2004
For: Semiconductor Device

Group Art Unit: 3663
Examiner: MONDT, Johannes P.
Conf. No.: 7102

**RESPONSE
TO ERRONEOUS NOTICE OF NON-COMPLIANT APPEAL BRIEF**

Sir:

On September 15, 2009, the Examiner issued a Notification on Non-Compliant Appeal Brief in the above-identified patent application. On the following day, September 16, 2009, the Examiner issued an Advisory Action indicating that Appellant's amendment of October 28, 2008 would not be entered.

Notification of Non-Compliant Appeal Brief:

Appellant's Appeal Brief filed January 27, 2009 was held defective on two grounds.

- a. That the brief did not contain a statement of the status of the amendment filed October 28, 2008.

b. That the Claims Appendix of the Brief incorrectly assumed that the amendment of October 28, 2008 has been entered.

Appellant will respond to each in turn.

(A) The brief did not contain a statement of the status of the amendment filed

October 28, 2008:

In response Appellant notes that the brief could not have contained any such statement.

Appellant's Brief filed January 27, 2009 correctly noted that an amendment had been filed subsequent to the final Office Action of June 2, 2008. However, the Examiner did not issue the Advisory Action deciding to refuse entry to that amendment until the day after the Notification of Non-Compliance was mailed. Thus, the Brief filed January 27, 2009 correctly provided all the required information *that was then available*.

Now that the Examiner has refused entry to the amendment of October 28, 2008, Appellant files herewith an amended appeal brief with a revised Section IV that properly indicates the fate of the amendment filed October 28, 2008.

(B) The Claims Appendix of the Brief incorrectly assumed that the amendment of
October 28, 2008 has been entered:

This allegation was first raised in an Order Returning Undocketed Appeal to the Examiner from the BPAI on September 8, 2009. It is, however, entirely incorrect.

The amendment of October 28, 2008 proposed a single amendment to claim 19 which changed an instance of the word "gate" to "drain."

19. (with the proposed amendment) A three-port semiconductor device, comprising:

a source electrode;

a drain electrode;

a gate electrode; and

means for providing a channel disposed between the source electrode and drain electrode, the means for providing a channel configured to permit movement of electric charge therethrough, between the source electrode and the [[gate]] drain electrode in response to a voltage applied at the gate electrode, the means for providing a channel formed at least in part from a ternary compound containing zinc, tin and oxygen, where the means for providing a channel includes means for providing a semiconductor formed from a zinc-tin oxide compound having the following stoichiometry: Zn₂SnO₄.

A review of the Claims Appendix in the most recent Brief filed by the Appellant in this matter will show that this change, which has never been entered, was *not* included in the version of claim 19 in that Appendix. The Notification of Non-Compliant Brief is simply in error in this regard.

The undersigned discussed this by phone with Examiner Mondt on October 6, 2009. In that phone interview, Examiner Mondt agreed that the Notification of Non-compliant Brief was incorrect in this regard and that the Claims Appendix in Appellant's Brief is correct.

Therefore, the Notification of Non-Compliant Appeal Brief should now be reconsidered and withdrawn.

Respectfully submitted,

DATE: October 15, 2009

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IV. Status of Amendments

One amendment has been filed on October 28, 2008 subsequent to the final Office Action of June 2, 2008, from which Appellant takes this appeal. This amendment seeks to correct a simple typographical error in claim 19 to place the application in better condition for appeal. In an Advisory Action dated September 16, 2009, the Examiner refused to enter this amendment.